

U. S. DISTRICT COURT
Southern District of Ga.
IN THE UNITED STATES DISTRICT COURT **Filed in Office**
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

3/18/15
Deputy Clerk

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. CR414-005
)	
CARL EVAN SWAIN,)	
)	
Defendant.)	
)	

O R D E R


Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 248), to which objections have been filed (Doc. 260). After a careful de novo review of the record, the Court finds Defendant's objections to be without merit. Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case and Defendant's Motion to Suppress, as amended (Doc. 215; Doc. 223) is **DENIED**.

In his objections, Defendant argues that the FBI agent's response to Defendant's question concerning appointment of legal counsel was misleading. (Doc. 260 at 1.) After reviewing the record, however, this Court concurs with the Magistrate Judge that the FBI agent's response "truthfully and accurately answered [Defendant's] 'lawyer question,'" explaining that the Court would address his request, outlining the procedures, and informing him that

the delay would prevent the interview from continuing. (Doc. 248 at 5.) Contrary to Defendant's objections, this response did not violate the requirement of Miranda v. Arizona, 384 U.S 436, 444 (1966).

Additionally, the Report and Recommendation denies Defendant's request to exclude certain statements for evidentiary reasons. (Doc. 248 at 7-8.) The Court agrees with the Magistrate Judge that these statements are not, per se, excludable as being obtained in violation of Miranda. To the extent Defendant believes the statement are inadmissible under the Federal Rules of Evidence, he remains free to raise those objections contemporaneously with the introduction of the evidence at trial.

SO ORDERED this 18th day of March 2015.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA